

Appl. No. : 10/749,100
Filed : December 30, 2003

REMARKS

In response to the Office Action mailed October 31, 2005, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments. As a result of the amendments listed above, Claims 1-19 remain pending, with Claims 1, 5, 8 and 18 having been amended.

In the changes made by the current amendment, ~~deletions are shown by strikethrough~~, and additions are underlined.

Claims 1-7, 18 and 19 Are Allowable Over Wang

Claims 1-7, 18 and 19 presently stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,161,448 to Wang. Applicant respectfully submits that Claims 1-7, 18 and 19, as amended, are allowable over the Wang reference and request reconsideration and allowance of the same.

The Wang reference discloses a bicycle brake lever assembly, which includes an adjustment feature to permit adjustment of the force applied to the brake cable during actuation of the brake lever. Essentially, the Wang brake lever assembly permits adjustment of a moment arm acting on the brake cable.

In rejecting Claims 1-7, 18 and 19, the Examiner has identified the lever pivot assembly, of which little detail is explicitly disclosed. The lever pivot includes a pin (24), which is received within two holes (13) of the lever support and passes through a hole (23) in the lever. The pin (24) includes a reduced-diameter center portion. Presumably, a set screw (unidentified) is used to secure the pin (24) relative to the lever. Details of the interaction between the set screw and the pin (24) are not specifically disclosed, however, it appears that the set screw would be received within the reduced-diameter portion of the pin (24) to prevent movement of the pin (24) relative to the lever along the longitudinal axis of the pin (24) and hole (23).

Claims 1-4, 6 and 7

Claims 1-4, 6 and 7 recite a control lever assembly including, among other recitations, a control lever having an upper shaft portion extending from an upper surface of the control lever and a lower shaft portion extending from a lower surface of the control lever. The upper shaft portion and the lower shaft portion *are configured to rotate with the control lever* relative to a

Appl. No. : 10/749,100
Filed : December 30, 2003

control lever support. Advantages of such a construction are discussed in the present specification with reference to a non-limiting embodiment of the claimed control lever assembly. Such advantages include reduced movement of the lever relative to the lever support in directions other than rotation. Such movement is often referred to as lever "play."

The Wang reference does not explicitly disclose that the pin (24) is configured to rotate with the lever. In order for a rejection to be maintained on the basis of inherency, a showing must be made that the pin (24) *necessarily* is configured for rotation along with the lever. The fact that the pin (24) and lever *may* be configured to rotate together is not sufficient. See M.P.E.P. 2112.

Applicant respectfully submits that the pin (24) and lever are not necessarily configured to rotate together in the Wang lever assembly and, accordingly, the present rejection is inapplicable to Claims 1-4, 6 and 7. Specifically, the provision of the reduced-diameter center section of the pin (24) suggests that the set screw is configured to contact the transition, or shoulder, between the reduced-diameter central portion and the ends of the pin (24). With the set screw adjusted as such, the pin (24) could be prevented from being removed from the lever in a direction along the axis of the pin (24), while still being free to rotate relative to the lever. Because the pin (24) is not necessarily fixed for rotation with the lever, Applicant respectfully requests reconsideration and withdrawal of the present rejection of Claims 1-4, 6 and 7.

Claim 5

Claim 5 recites a control lever assembly including, among other recitations, a control lever support and a control lever. The control lever support has an upper flange and a lower flange. The control lever includes: an upper shaft portion and a lower shaft portion supported within respective upper and lower bores of the control lever support. The upper bore extends completely through the upper flange and the lower bore *extends only partially through the lower flange*.

The lever assembly of the Wang reference includes a lower bore in the lever support that extends *all the way* through the support lower flange. Accordingly, the Wang reference does not anticipate Claim 5. Furthermore, the Wang reference provides no suggestion to provide a lower bore that extends only partially through the lower flange. For at least these reasons, Applicant

BEST AVAILABLE COPY

Appl. No. : 10/749,100
Filed : December 30, 2003

respectfully submits that Claim 5 is allowable over the Wang reference. Accordingly, reconsideration and allowance of the same is respectfully requested.

Claims 18 and 19

Claims 18 and 19 recite a control lever assembly including, among other recitations, a control lever, a control lever support and a support bolt. The support bolt defines a shaft portion and first and second ends. The shaft portion of the support bolt is configured to occupy a bore within said control lever. The first end of the support bolt has a diameter greater than the shaft portion *such that the first end contacts a surface of the control lever surrounding the bore*. Such a construction advantageously permits the support bolt to be securely coupled to the lever and also automatically establishing a desired relative position between the support bolt and the lever.

Such a construction is not disclosed or suggested by the Wang reference. The enlarged end portions of the pin (24) in the Wang lever could not abut an upper or lower surface of the lever because the pin (24) must be able to pass through the hole (23) for assembly purposes. Accordingly, Applicant respectfully submits that Claims 18 and 19, as amended, are allowable over the Wang reference.

Claims 8-17 Are Allowable Over Hatakoshi et al.

Claims 8-17 presently stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,457,378 to Hatakoshi et al. Applicant respectfully submits that Claims 8-17, as amended, are allowable over Hatakoshi et al. and request reconsideration and allowance of the same.

Hatakoshi et al. discloses a control lever assembly that permits adjustment of the reach of the lever, or the distance between the handgrip portion of the lever and the handlebar. To accomplish this function, the lever includes two separate portions (34 and 36), which are adjustable relative to one another. However, in relevant respects, the Hatakoshi et al. lever assembly is substantially similar to the prior art construction illustrated in Figure 1 of the present application. That is, the lever portions (34 and 36) rotate relative to the pivot bolt (27). See Column 1, line 65-Column 2, line 1.

In contrast, the control lever assembly of Claims 8-17 includes, among other recitations, a pivot shaft that is *fixed for rotation with* a control lever. With such an arrangement, undesirable

BEST AVAILABLE COPY

Appl. No. : 10/749,100
Filed : December 30, 2003

"play" or movement of the lever other than rotation is significantly reduced or eliminated. Claim 8 is amended herein to clarify the relationship between the pivot shaft and the control lever. However, the amendment to Claim 8 does not change the scope of the claim. Applicant submits that Claim 8, in its original form, was also allowable over the Hatakoshi et al. reference.

The Hatakoshi et al. reference does not disclose or suggest a lever assembly in which a pivot shaft is fixed for rotation with the control lever. Accordingly, for at least this reason, Claims 8-17 are allowable over the Hatakoshi et al. reference. Reconsideration and withdrawal of the present rejection of Claims 8-17 is respectfully requested.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, Curtiss C. Dosier at (949) 721-7613 (direct line), to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: JANUARY 31, 2006

By: 

Curtiss C. Dosier
Registration No. 46,670
Attorney of Record
Customer No. 20,995
(949) 760-0404

2317218/nm
012306

BEST AVAILABLE COPY